

EXHIBIT 2

INTRODUCTION

This matter involves numerous violations of the Political Reform Act (the “Act”)¹ from 2003 through 2007. The respondents in this matter are Senator Carole Migden, three of her controlled committees, Roger Sanders, and Eric Potashner.

Respondent Migden is currently a candidate for re-election to the Third State Senate District, having been originally elected to that office in 2004. Respondent Migden also served in the State Assembly from 1996 through 2002, and on the State Board of Equalization from 2002 through 2004. The table below provides pertinent background regarding each respondent committee.

Name	Office	Date of Filing Statement of Organization	Date of Filing Statement of Candidacy	Election Dates	Reported Date of Termination
Carole Migden Leadership Committee	Member, State Board of Equalization	1/10/2001	01/10/2001	(P) 3/5/2002 (G)11/5/2002	8/15/2007
Friends of Carole Migden	Senator	12/26/2000	12/26/2000	(P) 3/2/2004 (G) 11/2/2004	Still open.
Re-Elect Senator Carole Migden	Senator	1/24/2005	7/3/2007	(P) 06/3/2008 (G)11/4/2008	Still open.

Respondent Roger Sanders was the treasurer for all three committees until about March 2007. In 2001, Respondent Eric Potashner began assisting Respondent Sanders and was compensated by each of the committees for services involving the planning, organizing, or directing of activities regulated or required by the Act. Respondent Potashner performed these duties through about April 2007. Amended statements of organization filed in April 2007 disclosed Respondent Migden as the committees’ new treasurer.

For purposes of settlement, the violations of the Act can be stated, according to the respondents to which they correspond, as follows:

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

RESPONDENTS: Carole Migden, the Carole Migden Leadership Committee, Roger Sanders, and Eric Potashner

FAILURE TO TIMELY TERMINATE AND TO CEASE FINANCIAL ACTIVITY

- COUNT 1:** Respondents continued to have reportable financial activity during the reporting period July 1, 2006, through December 31, 2006, after failing to timely terminate the Carole Migden Leadership Committee, in violation of Section 84214 and Regulation 18404.1.
- COUNT 2:** Respondents continued to have reportable financial activity during the reporting period January 1, 2007, through June 30, 2007, after failing to timely terminate the Carole Migden Leadership Committee, in violation of Section 84214 and Regulation 18404.1.
- COUNT 3:** Respondents continued to have reportable financial activity during the reporting period July 1, 2007, through August 15, 2007, after failing to timely terminate the Carole Migden Leadership Committee, in violation of Section 84214 and Regulation 18404.1.

FAILURE TO TIMELY REPORT EXPENDITURES

- COUNT 4:** Respondents failed to timely report approximately \$231,580 in expenditures required to be reported by or about the period ending December 31, 2006, in violation of Section 84211, subdivisions (b), (i), and (k).

FAILURE TO TIMELY REPORT TRANSFERS

- COUNT 5:** Respondents failed to timely report a \$15,000 transfer made to Friends of Carole Migden during the reporting period July 1, 2004, through September 30, 2004, in violation of Section 84211, subdivisions (b), (i), and (k).
- COUNT 6:** Respondents failed to timely report a \$250,000 transfer made to Friends of Carole Migden during the reporting period October 1, 2004, through October 16, 2004, in violation of Section 84211, subdivisions (b), (i), and (k).

RESPONDENTS: Carole Migden, Friends of Carole Migden, Roger Sanders, and Eric Potashner

ONE BANK ACCOUNT RULE

COUNT 7: On or about December 19, 2003, Respondents made an expenditure of \$200.45 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 8: On or about December 19, 2003, Respondents made an expenditure of \$98.78 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 9: On or about December 22, 2003, Respondents made an expenditure of \$200.00 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 10: On or about December 22, 2003, Respondents made an expenditure of \$42.86 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 11: On or about December 23, 2003, Respondents made an expenditure of \$300.00 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 12: On or about December 31, 2003, Respondents made an expenditure of \$300.00 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 13: On or about January 5, 2004, Respondents made an expenditure of \$50.00 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 14: On or about January 5, 2004, Respondents made an expenditure of \$33.00 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 15: On or about January 6, 2004, Respondents made an expenditure of \$36.78 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 16: On or about January 6, 2004, Respondents made an expenditure of \$1,114.00 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 17: On or about January 6, 2004, Respondents made an expenditure of \$44.89 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 18: On or about January 13, 2004, Respondents made an expenditure of \$500.00 from a bank account established for the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

COUNT 19: Respondents used and redesignated a campaign bank account initially opened and held in the name of the Carole Migden Leadership Committee, in violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivisions (a) and (b).

FAILURE TO REPORT RECEIPT OF TRANSFERS

COUNT 20: Respondents failed to report receipt of a \$15,000 transfer from the Carole Migden Leadership Committee during the reporting period July 1, 2004, through September 30, 2004, in violation of Section 84211, subdivisions (a), (c), and (f).

COUNT 21: Respondents failed to report receipt of a \$250,000 transfer from the Carole Migden Leadership Committee during the reporting period October 1, 2004, through October 16, 2004, in violation of Section 84211, subdivisions (a), (c), and (f).

FAILURE TO REPORT CREDIT CARD VENDOR INFORMATION

COUNT 22: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$14,969.97, required to be reported by or about the period ending June 30, 2003, in violation of Section 84211, subdivision (k).

COUNT 23: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$5,411.99, required to be reported by or about the period ending September 30, 2003, in violation of Section 84211, subdivision (k).

COUNT 24: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$5,032.22, required to be reported by or about the period ending December 31, 2003, in violation of Section 84211, subdivision (k).

COUNT 25: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$2,194.23, required to be reported by or about the period ending February 14, 2004, in violation of Section 84211, subdivision (k).

COUNT 26: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$20,434.13, required to be reported by or about the period ending June 30, 2004, in violation of Section 84211, subdivision (k).

COUNT 27: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$15,701.64, required to be reported by or about the period ending September 30, 2004, in violation of Section 84211, subdivision (k).

COUNT 28: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$10,114.49, required to be reported by or about the period ending December 31, 2004, in violation of Section 84211, subdivision (k).

RESPONDENTS: Carole Migden, Re-Elect Senator Carole Migden, Roger Sanders, and Eric Potashner

CONTRIBUTIONS PRIOR TO A STATEMENT OF INTENTION

COUNT 29: Respondents received \$303,350 in contributions during the reporting period January 1, 2005, through June 30, 2005, prior to Respondent Migden filing a statement of intention to be a candidate for State Senate on July 3, 2007, in violation of Section 85200.

COUNT 30: Respondents received \$186,420 in contributions during the reporting period July 1, 2005, through December 31, 2005, prior to Respondent Migden filing a statement of intention to be a candidate for State Senate on July 3, 2007, in violation of Section 85200.

COUNT 31: Respondents received \$10,500 in contributions during the reporting period January 1, 2006, through March 17, 2006, prior to Respondent Migden filing a statement of intention to be a candidate for State Senate on July 3, 2007, in violation of Section 85200.

COUNT 32: Respondents received \$50,859 in contributions during the reporting period March 18, 2006, through May 20, 2006, prior to Respondent Migden filing a statement of intention to be a candidate for State Senate on July 3, 2007, in violation of Section 85200.

COUNT 33: Respondents received \$36,700 in contributions during the reporting period May 21, 2006, through June 30, 2006, prior to Respondent Migden filing a statement of intention to be a candidate for State Senate on July 3, 2007, in violation of Section 85200.

COUNT 34: Respondents received \$63,100 in contributions during the reporting period July 1, 2006, through September 30, 2006, prior to Respondent Migden filing a statement of intention to be a candidate for State Senate on July 3, 2007, in violation of Section 85200.

COUNT 35: Respondents received \$74,000 in contributions during the reporting period October 22, 2006, through December 31, 2006, prior to Respondent Migden filing a statement of intention to be a candidate for State Senate on July 3, 2007, in violation of Section 85200.

COUNT 36: Respondents received \$473,202 in contributions during the reporting period January 1, 2007, through June 30, 2007, prior to Respondent Migden filing a statement of intention to be a candidate for State Senate on July 3, 2007, in violation of Section 85200.

FAILURE TO TIMELY REPORT CONTRIBUTIONS

COUNT 37: Respondents failed to timely report 30 contributions, totaling approximately \$30,485, received during the reporting period January 1, 2005, through June 30, 2005, in violation of Section 84211, subdivisions (a), (c), and (f).

- COUNT 38: Respondents failed to timely report nine contributions, totaling approximately \$8,875, received during the reporting period July 1, 2005, through December 31, 2005, in violation of Section 84211, subdivisions (a), (c), and (f).
- COUNT 39: Respondents failed to timely report six contributions, totaling approximately \$3,450, received during the reporting period January 1, 2006, through March 17, 2006, in violation of Section 84211, subdivisions (a), (c), and (f).
- COUNT 40: Respondents failed to timely report two contributions, totaling approximately \$1,500, received during the reporting period May 21, 2006, through June 30, 2006, in violation of Section 84211, subdivisions (a), (c), and (f).
- COUNT 41: Respondents failed to timely report three contributions, totaling approximately \$9,900, received during the reporting period July 1, 2006, through September 30, 2006, in violation of Section 84211, subdivisions (a), (c), and (f).
- COUNT 42: Respondents failed to timely report four contributions, totaling approximately \$2,050, received during the reporting period October 1, 2006, through October 21, 2006, in violation of Section 84211, subdivisions (a), (c), and (f).
- COUNT 43: Respondents failed to timely report two contributions, totaling approximately \$1,500, received during the reporting period October 22, 2006, through December 31, 2006, in violation of Section 84211, subdivisions (a), (c), and (f).

INACCURATE DISCLOSURE OF CASH PAYMENTS AND RECEIPTS

- COUNT 44: In a semi-annual campaign statement filed on August 1, 2005, for the reporting period January 1, 2005, through June 30, 2005, Respondents understated cash receipts by approximately \$26,278, thereby violating Section 84211, subdivisions (a) and (e).
- COUNT 45: In a semi-annual campaign statement filed on January 31, 2006, for the reporting period July 1, 2005, through December 31, 2005, Respondents understated cash receipts by approximately \$38,610, thereby violating Section 84211, subdivisions (a) and (e).
- COUNT 46: In a semi-annual campaign statement filed on January 31, 2006, for the reporting period July 1, 2005, through December 31, 2005, Respondents

understated cash payments by approximately \$42,712, thereby violating Section 84211, subdivisions (b) and (e).

COUNT 47: In a pre-election campaign statement filed on March 22, 2006, for the reporting period January 1, 2006, through March 17, 2006, Respondents understated cash payments by approximately \$53,134, thereby violating Section 84211, subdivisions (b) and (e).

COUNT 48: In a pre-election campaign statement filed on May 25, 2006, for the reporting period March 18, 2006, through May 20, 2006, Respondents understated cash payments by approximately \$14,536, thereby violating Section 84211, subdivisions (b) and (e).

COUNT 49: In a semi-annual campaign statement filed on July 31, 2006, for the reporting period May 21, 2006, through June 30, 2006, Respondents understated cash payments by approximately \$14,731, thereby violating Section 84211, subdivisions (b) and (e).

COUNT 50: In a semi-annual campaign statement filed on January 31, 2007, for the reporting period October 22, 2006, through December 31, 2006, Respondents understated cash payments by approximately \$46,302, thereby violating Section 84211, subdivisions (b) and (e).

RECORDKEEPING – WITHDRAWALS

COUNT 51: Respondents failed to maintain supporting records, such as invoices and receipts, for withdrawals made from the campaign bank account totaling \$2,250, during the reporting period of January 1, 2006, through March 17, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).

COUNT 52: Respondents failed to maintain supporting records, such as invoices and receipts, for withdrawals made from the campaign bank account totaling \$1,300, during the reporting period of March 18, 2006, through May 20, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).

COUNT 53: Respondents failed to maintain supporting records, such as invoices and receipts, for withdrawals made from the campaign bank account totaling \$1,900, during the reporting period May 21, 2006, through June 30, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).

COUNT 54: Respondents failed to maintain supporting records, such as invoices and receipts, for withdrawals made from the campaign bank account totaling \$2,200, during the reporting period July 1, 2006, through September 30, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).

COUNT 55: Respondents failed to maintain supporting records, such as invoices and receipts, for withdrawals made from the campaign bank account totaling \$200, during the reporting period October 1, 2006, through October 21, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).

COUNT 56: Respondents failed to maintain supporting records, such as invoices and receipts, for withdrawals made from the campaign bank account totaling \$1,000, during the reporting period October 22, 2006, through December 31, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).

RECORDKEEPING – EXPENDITURES

COUNT 57: Respondents failed to maintain supporting records, such as invoices and receipts, for expenditures totaling approximately \$41,630, made during the reporting period of January 1, 2005, through June 30, 2005, in violation of Section 84104 and Regulation 18401, subdivision (a).

COUNT 58: Respondents failed to maintain supporting records, such as invoices and receipts, for expenditures totaling approximately \$57,471, made during the reporting period of July 1, 2005, through December 31, 2005, in violation of Section 84104 and Regulation 18401, subdivision (a).

COUNT 59: Respondents failed to maintain supporting records, such as invoices and receipts, for expenditures totaling approximately \$21,964, made during the reporting period of January 1, 2006, through March 17, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).

COUNT 60: Respondents failed to maintain supporting records, such as invoices and receipts, for expenditures totaling approximately \$22,604, made during the reporting period of through March 18, 2006, through May 20, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).

- COUNT 61: Respondents failed to maintain supporting records, such as invoices and receipts, for expenditures totaling approximately \$5,105, made during the reporting period May 21, 2006, through June 30, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).
- COUNT 62: Respondents failed to maintain supporting records, such as invoices and receipts, for expenditures totaling approximately \$32,825, made during the reporting period July 1, 2006, through September 30, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).
- COUNT 63: Respondents failed to maintain supporting records, such as invoices and receipts, for expenditures totaling approximately \$400, made during the reporting period October 1, 2006, through October 21, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).
- COUNT 64: Respondents failed to maintain supporting records, such as invoices and receipts, for expenditures totaling approximately \$130,675, made during the reporting period October 22, 2006, through December 31, 2006, in violation of Section 84104 and Regulation 18401, subdivision (a).
- COUNT 65: Respondents failed to maintain supporting records, such as invoices and receipts, for expenditures totaling approximately \$33,496, made during the reporting period January 1, 2007, through June 30, 2007, in violation of Section 84104 and Regulation 18401, subdivision (a).

REPORTS OUTSIDE 90-DAY ELECTION CYCLE

- COUNT 66: On March 15, 2005, outside the 90-day period before an election, Respondents received contributions of \$5,000 or more, in the total amount of \$13,200, and failed to timely disclose them within 10 business days of receipt in a campaign report filed online or electronically, in violation of Section 85309, subdivision (c).
- COUNT 67: On December 31, 2005, outside the 90-day period before an election, Respondents received a contribution of \$5,000 or more, in the amount of \$6,600, and failed to timely disclose it within 10 business days of receipt in a campaign report filed online or electronically, in violation of Section 85309, subdivision (c).
- COUNT 68: On May 18, 2006, outside the 90-day period before an election, Respondents received a contribution of \$5,000 or more, in the amount of \$5,000, and failed to timely disclose it within 10 business days of receipt in a campaign report filed online or electronically, in violation of Section 85309, subdivision (c).

COUNT 69: On June 21, 2006, outside the 90-day period before an election, Respondents received a contribution of \$5,000 or more, in the amount of \$5,000, and failed to timely disclose it within 10 business days of receipt in a campaign report filed online or electronically, in violation of Section 85309, subdivision (c).

COUNT 70: On June 22, 2006, outside the 90-day period before an election, Respondents received a contribution of \$5,000 or more, in the amount of \$5,000, and failed to timely disclose it within 10 business days of receipt in a campaign report filed online or electronically, in violation of Section 85309, subdivision (c).

COUNT 71: On September 27, 2006, outside the 90-day period before an election, Respondents received a contribution of \$5,000 or more, in the amount of \$6,700, and failed to timely disclose it within 10 business days of receipt in a campaign report filed online or electronically, in violation of Section 85309, subdivision (c).

COUNT 72: On September 28, 2006, outside the 90-day period before an election, Respondents received a contribution of \$5,000 or more, in the amount of \$6,700, and failed to timely disclose it within 10 business days of receipt in a campaign report filed online or electronically, in violation of Section 85309, subdivision (c).

COUNT 73: On December 31, 2006, outside the 90-day period before an election, Respondents received a contribution of \$5,000 or more, in the amount of \$6,700, and failed to timely disclose it within 10 business days of receipt in a campaign report filed online or electronically, in violation of Section 85309, subdivision (c).

FAILURE TO REPORT CREDIT CARD VENDOR INFORMATION

COUNT 74: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$30,274.50, required to be reported by or about the period ending June 30, 2005, in violation of Section 84211, subdivision (k).

COUNT 75: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$26,743.53, required to be reported by or about the period ending December 31, 2005, in violation of Section 84211, subdivision (k).

COUNT 76: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$18,000.29, required to be reported by or about the period ending March 17, 2006, in violation of Section 84211, subdivision (k).

COUNT 77: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$25,823.93, required to be reported by or about the period ending May 20, 2006, in violation of Section 84211, subdivision (k).

COUNT 78: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$14,087.10, required to be reported by or about the period ending June 30, 2006, in violation of Section 84211, subdivision (k).

COUNT 79: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$16,386.52, required to be reported by or about the period ending September 30, 2006, in violation of Section 84211, subdivision (k).

COUNT 80: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$23,448.63, required to be reported by or about the period ending December 31, 2006, in violation of Section 84211, subdivision (k).

PERSONAL USE

COUNT 81: Respondents made expenditures totaling \$2,706.05 during the reporting period January 1, 2005, through June 30, 2005, which were neither reasonably nor directly related to a political, legislative, or governmental purpose, in violation of Section 89512.

COUNT 82: Respondents made expenditures totaling \$3,469.36 during the reporting period July 1, 2005, through December 31, 2005, which were neither reasonably nor directly related to a political, legislative, or governmental purpose, in violation of Section 89512.

COUNT 83: Respondents made expenditures totaling \$3,153.59 during the reporting period January 1, 2006, through March 17, 2006, which were neither reasonably nor directly related to a political, legislative, or governmental purpose, in violation of Section 89512.

COUNT 84: Respondents made expenditures totaling \$1,931.77 during the reporting period March 18, 2006, through May 20, 2006, which were neither reasonably nor directly related to a political, legislative, or governmental purpose, in violation of Section 89512.

COUNT 85: Respondents made expenditures totaling \$1,170.29 during the reporting period May 21, 2006, through June 30, 2006, which were neither reasonably nor directly related to a political, legislative, or governmental purpose, in violation of Section 89512.

COUNT 86: Respondents made expenditures totaling \$1,736.71 during the reporting period July 1, 2006, through September 30, 2006, which were neither reasonably nor directly related to a political, legislative, or governmental purpose, in violation of Section 89512.

COUNT 87: Respondents made expenditures totaling \$1,503.96 during the reporting period October 22, 2006, through December 31, 2006, which were neither reasonably nor directly related to a political, legislative, or governmental purpose, in violation of Section 89512.

COUNT 88: Respondents made expenditures totaling \$646.18 during the reporting period January 1, 2007, through June 30, 2007, which were neither reasonably nor directly related to a political, legislative, or governmental purpose, in violation of Section 89512.

RESPONDENTS: Carole Migden and Re-Elect Senator Carole Migden

COUNT 89: Respondents failed to disclose vendor information for credit card expenditures of \$100 or more totaling \$30,847.03, required to be reported by or about the period ending June 30, 2007, in violation of Section 84211, subdivision (k).

SUMMARY OF THE LAW

The violations discussed below occurred from 2003 through 2007.² During those years, and continuing to the present, an express purpose of the Act has been to ensure that contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. (§ 81002, subd. (a).) To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

² All statutory references and discussions of law pertain to the Act's provisions when the violations took place.

Section 82013, subdivision (a) defines a “committee” to include any person who receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient committee.” Under Section 82016, a recipient committee which is controlled directly or indirectly by a candidate, or which acts jointly with a candidate in connection with the making of expenditures, is a “controlled committee.” A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee. (§ 82016, subd. (a).)

Duty to File Campaign Statements

At the core of the Act’s campaign reporting system is the requirement set forth in Section 84200, subdivision (a), that a recipient committee file semi-annual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

Candidates for elective state office and their controlled committees are also required to file two pre-election campaign statements before an election in which the candidate is being voted upon. (§ 84200.5.) Furthermore, an elected state officer, such as Member of the Legislature and a member of the State Board of Equalization, and all his or her controlled committees, must similarly file the two pre-election campaign statements due before the state primary and general elections if any of his or her controlled committees, during the period covered by the pre-election campaign statement, made a contribution to any committee required to report receipts, expenditures, or contributions, or made an independent expenditure. (§ 84200.5, subd. (a).)

Duty to Report Contributions

Each campaign statement must report “[t]he total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.” (§ 84211, subd. (a).) A contribution is a payment of any kind made for political purposes for which full and adequate consideration is not made to the donor. (§§ 82015, subd. (a), 82044; Reg. § 18215, subd. (a).) A payment is for political purposes if, for instance, it is:

- For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or
- Made or received by a controlled committee or
- Made or received by a candidate, unless it is clear from the circumstances that the payment was made by the candidate for personal purposes unrelated to his or her candidacy or status as an officeholder. (Reg. §§ 18215, subd. (a)(1), (2); 18225, subd. (a)(1), (2).)

Section 84211, subdivision (f), further requires that certain identifying information be provided for each person from whom a cumulative amount of contributions of one hundred dollars (\$100) or more has been received during the period covered by the campaign statement, including the following: (1) the person's full name; (2) his or her street address; (3) his or her occupation; (4) the name of his or her employer, or if self-employed, the name of the business; (5) the date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan; and (6) the cumulative amount of contributions.

Regulation 18421.1 states the standards for disclosing the making and receiving of contributions. Under the regulation, a monetary contribution is "received" on the date that the candidate or committee, or the agent of the candidate or committee, obtains possession or control of the check or other negotiable instrument by which the contribution is made. (Reg. § 18421.1, subd. (c).) Moreover, a contribution made by wire transfer, credit card transaction, or similar electronic payment is "received" on the date the candidate or committee obtains possession of the funds or the account information or other payment information by which the contribution is made. (Reg. § 18421.1, subd. (e).) Subject to an exception that is not applicable to this matter, all contributions received by a person acting as an agent of a candidate or committee must be disclosed by the candidate or committee no later than the closing date of the next campaign statement that the committee or candidate is required to file. (Reg. § 18421.1, subds. (c), (e).)

Duty to Report Expenditures

Each campaign statement must also report "[t]he total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made." (§ 84211, subd. (b).) An expenditure is any monetary or nonmonetary payment made for political purposes. (§ 82025, subd. (a); Reg. § 18225, subd. (a).)

Section 84211, subdivision (i) also requires candidates and their controlled committees to disclose the total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more. Section 84211, subdivision (k), further requires that certain information be provided for each person to whom an expenditure of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement, including the following: (1) the payee's full name; (2) the payee's street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure was made.

In the case of an expenditure that is a contribution to a candidate or committee to support or oppose a candidate, the statement must also provide detailed information regarding the receiving candidate or committee. (§ 84211, subd. (k).)

Duty to Report Cash and Cash Equivalents on Hand

Additionally, the campaign statement also must report “[t]he balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.” (§ 84211, subd. (e).) The cash on hand at the end of the reporting period is reported as the “Ending Cash Balance” on the “Summary Page,” the campaign statement’s second page which provides an overview of a committee’s finances. For the purposes of computing the total contributions received, the total expenditures made, and the Ending Cash Balance, a committee must report cash receipts (i.e., monetary contributions) and cash payments on the Summary Page.

Duty to Report Contributions Received Outside the Election Cycle of \$5,000 or More

In order to maximize the availability of information regarding campaign disclosure to the public, the Act requires any candidate, officeholder, committee, or other person who is required to file statements, reports, or other documents in connection with a state elective office to file them online or electronically when the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is \$50,000 or more. (§ 84605, subd. (a).)

Once a person or entity is required to file online or electronically, the person or entity is required to file all subsequent reports online or electronically as well. (§ 84605, subd. (g).) Persons filing online or electronically are also required to continue to file required disclosure statements and reports in paper format, which continue to be the official filing for audit and other legal purposes until the Secretary of State determines the system is operating securely and effectively. (§ 84605, subd. (i).)

A candidate for elective state office who is required to file campaign reports online or electronically is also required to file a campaign report online or electronically within 10 business days of receipt of every contribution of \$5,000 or more that is received at any other time than during the election cycle. (§ 85309, subd. (c).) This campaign report must disclose specified information regarding the contribution and is not required to be filed in paper format. (*Ibid.*) “Election cycle” for the purposes of Section 85309 means the period of time commencing 90 days prior to an election and ending on the date of the election. (§ 85204.)

Duty to File Statement of Intention to Become a Candidate

Prior to soliciting or receiving any contributions, an individual who intends to be a candidate for office is required to file a statement of intention to be a candidate for the specific office sought. (§ 85200.) A candidate for elective state office must file a statement of intention with the Secretary of State. Section 82007 defines a “candidate” to include an individual who receives a contribution or makes an expenditure with a view of bringing about his or her election to any elective office.

One Bank Account Rule

Section 85201, subdivision (a), requires a candidate to establish one campaign contribution account at an office of a financial institution located in the state, upon the filing of the required statement of intention to be a candidate. This requirement is commonly referred to as “the one bank account rule.” A candidate who is required to file a statement of organization for a controlled committee must establish a separate controlled committee and campaign bank account for each specific office identified in the statement. (Reg. § 18521, subd. (a).)

All contributions for a specific elective office must be deposited into the campaign bank account established for that elective office. (Reg. § 18521, subd. (a).) Similarly, all campaign expenditures for that specific elective office must be made from that same account. (§ 85201, subds. (a), (e).)

Only candidates other than candidates for elective state office may redesignate a controlled committee and campaign bank account established for a specific office as a campaign bank account for a future election. (Reg. § 18521, subd. (b).) By its own terms, Regulation 18521 does not apply to a Member of the Legislature or a member of the State Board of Equalization, as both are elective state offices. (§ 82024.)

Duty to Maintain Records

To ensure accurate campaign reporting, Section 84104 imposes a mandatory duty on each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills, and receipts that are necessary to prepare campaign statements and to comply with the campaign reporting provisions of the Act. This requirement, as interpreted by Regulation 18401, includes a duty to maintain detailed information and original source documentation for all contributions and expenditures.

For all campaign expenditures of \$25 or more, Regulation 18401, subdivision (a) requires candidates and their controlled committees to maintain original source documentation containing the date the expenditure was made, the amount of the expenditure, the full name and street address of the payee, and a description of the goods or services for which each expenditure was made. Original source documentation consists of cancelled checks, wire transfers, credit card charge slips, bills, receipts, invoices, statements, vouchers, and any other documents reflecting obligations incurred by the candidate, elected officer, campaign treasurer, or committee, and disbursements made from the campaign bank account. (Reg. § 18401, subd. (a).)

As a general rule, the above-listed records must be maintained for a period of four years following the date the campaign statement to which they relate is filed. (Reg. § 18401, subd. (b)(2).)

Prohibition Against the Personal Use of Campaign Funds

The “personal use of campaign funds” provisions in the Act regulate the appropriate use of campaign funds (e.g., contributions, cash, cash equivalents, and other assets received or possessed by a committee). (§§ 89510-89522.) Under these provisions, all contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office. (§ 89510, subd. (b).) An expenditure to seek office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a political purpose. (§ 89512.) However, expenditures that confer a substantial personal benefit must be directly related to a political, legislative, or governmental purpose. (*Ibid.*) A “substantial personal benefit” means an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars (\$200) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee. (§ 89511, subd. (b)(3).)

Duty to Terminate a Committee and to Cease Reportable Activities

Section 84214 requires committees and candidates to terminate their filing obligations pursuant to regulations adopted by the Fair Political Practices Commission (the “Commission”), as those regulations insure that a committee or candidate will have no activity which must be disclosed pursuant to the Act subsequent to the termination.

Regulation 18404.1 sets forth specific rules for the termination of candidate controlled committees organized for an elective state office. Candidate controlled committees organized for elective state office for an election held on or after January 1, 2001, with no “net debts outstanding” must terminate by no later than nine months after the date that the candidate is defeated, leaves office, or the term of office for which the committee was formed ends, whichever is earliest. (Reg. § 18404.1, subd. (b)(1).) A committee terminates by filing a statement of organization declaring the committee's termination with the Secretary of State. (Reg. § 18404, subd. (c).) “Net debts outstanding” includes the total amount of unpaid debts, loans, and accrued expenditures incurred with respect to an election, less the sum of the total cash on hand to pay those debts and obligations. (Reg. § 18531.6, subd. (d).)

On or before termination of the candidate controlled committee, the campaign bank account associated with the committee must be closed. (Reg. § 18404.1, subd. (c).) No further activity, including receipt of contributions or making of payments, is allowed after the date of termination of the committee unless the committee and a campaign bank account are reopened with the consent of the Commission’s Executive Director. (*Ibid.*)

Liability for Violations under the Act

To ensure truthful disclosure, Section 84213 requires a candidate to verify his or her campaign statements as well as the campaign statements of his or her controlled committees.

The verification signed by the candidate states that the treasurer used all reasonable diligence in the preparation of the committee's statement, and, to the best of the candidate's knowledge, the statement is true and complete. (§ 84213.)

Section 81004 sets forth the same requirements for a committee's treasurer. Moreover, under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that the committee complies with all of the requirements of the Act concerning the reporting of all funds received and spent.

A committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee under Sections 83116.5 and 91006. More generally, Section 83116.5 provides that any person who violates any provision of the Act, who purposely or negligently causes any other person to violate any provision of the Act, or who aids and abets any other person in the violation of any provision of the Act, shall be liable in an administrative enforcement proceeding. This liability applies only to persons who have filing or reporting obligations under the Act, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by the Act. (§ 83116.5.)

SUMMARY OF THE FACTS

The violations of the Act set for the below occurred from 2003 through 2007 and are applicable as follows:

Counts	Respondents
1-6	<ul style="list-style-type: none">• Carole Migden• Carole Migden Leadership Committee ("BOE Committee")• Roger Sanders• Eric Potashner
7-28	<ul style="list-style-type: none">• Carole Migden• Friends of Carole Migden ("2004 Senate Committee")• Roger Sanders• Eric Potashner
29-88	<ul style="list-style-type: none">• Carole Migden• Re-Elect Senator Carole Migden ("2008 Senate Committee")• Roger Sanders• Eric Potashner
89	<ul style="list-style-type: none">• Carole Migden• 2008 Senate Committee

BOE COMMITTEE ET AL.

Counts 1-3

(Having Reportable Financial Activity After Failing to Timely Terminate)

With no “net debts outstanding” as of December 5, 2004 (the latest possible date that Respondent Migden could have remained on the Board of Equalization), the BOE Committee was required to terminate by no later than nine months after the date that Respondent Migden was defeated, left office, or her term of office on the Board of Equalization ended, whichever was earliest. (Reg. § 18404.1, subd. (b)(1).) Any further activity, including receipt of contributions or making of payments, was prohibited subsequent to that date. (Reg. § 18404.1, subd. (c).)

The campaign statement filed on January 30, 2005, for the reporting period October 17, 2004, through December 31, 2004, reported outstanding debts as “[\$]11086.62.” The campaign statement also reported an Ending Cash Balance of “[\$]502318.18.” Based on the BOE Committee’s filed campaign statement reflecting the cash balance and debts in existence when Respondent Migden left the Board of Equalization, the BOE Committee had no “net debt outstanding.”

However, campaign statements filed by the BOE Committee show that the following reported activity took place after September 5, 2005, the latest date that the BOE Committee could have lawfully remained open:

Count	Reporting Period	Contributions	Expenditures
1	7/1/2006-12/31/2006	\$0	\$485,492.89 ³
2	1/1/2007-6/30/2007	\$0	\$7,962.00
3	7/1/2007-8/15/2007	\$0	\$20,861.42
		TOTAL:	\$514,316.31

The BOE Committee filed its statement of organization (termination) on August 17, 2007 disclosing the “Date of Termination” of “8/15/07.” Thus, the BOE Committee continued to remain open for about two years after it was required to terminate and reported having financial activity during that time.

By continuing to have reportable financial activity after the BOE Committee was required to terminate, as set forth above, Respondents committed three violations of Section 84214 and Regulation 18404.1.

³ This amount includes \$290,000 in transfers (discussed in counts 5 and 6) and other expenditures (discussed in count 4).

Count 4
(Failure to Timely Report Expenditures)

The Act required each of the BOE Committee's campaign statements to include the total amount of expenditures made during the reporting period covered by the campaign statement, the total amount of expenditures made during the reporting period to persons who have received \$100 or more, and certain information for each person to whom an expenditure of \$100 or more has been made. (§ 84211, subds. (b), (i), (k).) In the case of an expenditure that is a contribution to a candidate or committee to support or oppose a candidate, the statement was required also to provide detailed information regarding the receiving candidate or committee. (§ 84211, subd. (k).)

In an initial semi-annual campaign statement filed on April 13, 2007, for the reporting period July 1, 2006, through December 31, 2006, Respondents reported that the BOE Committee had no reportable activity during the reporting period. However, in an amended semi-annual campaign statement filed in paper and electronic format on July 31, 2007, Respondents reported making approximately \$231,580 in expenditures by the end of that same reporting period.

By failing to timely report expenditures, as set forth above, Respondents committed one violation of Section 84211, subdivision (b), (i) and (k).

Counts 5-6
(Failure to Timely Report Transfers)

Transfers to other committees are expenditures that must be reported under Section 84211, subdivisions (b), (i), and (k). (§ 82044; Reg. § 18225, subd. (a)(2).) However, Respondents did not disclose making two transfers to the 2004 Senate Committee totaling \$265,000, until three years after making those transfers.

A cancelled check dated "9/7/04" and corresponding bank record show the deposit into the 2004 Senate Committee account of a check from payor "CAROLE MIGDEN" (written in handwriting) of \$15,000 made payable to "Friends of Carole Migden." The check bears account number "856331126302," which, according to bank statements, was a money market account of the "CAROLE MIGDEN LEADERSHIP COMMITTEE."

A cancelled check dated "10/14/04" and corresponding bank record show the deposit into the 2004 Senate Committee account of a check from payor "Carole Migden" (written in handwriting) of \$250,000 made payable to "Friends OF CAROLE MIGDEN." It bears account number "856331126302," which, according to bank statements, was a money market account of the "CAROLE MIGDEN LEADERSHIP COMMITTEE."

A campaign statement disclosing both of these transactions was filed by the BOE Committee on August 1, 2007, for the reporting period July 1, 2006, through December

31, 2006. The September 7, 2004 transaction is described as a “Previous Period transfer to affiliated committee on 9/4/04.” The October 14, 2004 transaction is described as a “Previous period transfer to affiliated committee on 10/18/04.”

Based on the bank records, the transactions should have been disclosed in 2004 for the following two reporting periods:

Count	Date of Transfer	Reporting Period	Amount of Transfer
5	9/7/04	7/1/2004 - 9/30/2004	\$15,000
6	10/14/04	10/1/2004 - 10/16/2004	\$250,000
		TOTAL:	\$265,000

By failing to timely report two transfers to the 2004 Senate Committee, as set forth above, Respondents committed two violations of Section 84211, subdivisions (b), (i), and (k).

2004 SENATE COMMITTEE ET AL.

Counts 7-19 **(One Bank Account Rule Violations)**

Upon the filing of her statement of intention to be a candidate for the State Senate, Respondent Migden was required to establish one campaign contribution account at an office of a financial institution located in the state. (§ 85201, subd. (a).) More specifically, she was required to establish a separate controlled committee and campaign bank account for each specific office identified in the statement. (Reg. § 18521, subd. (a).) All campaign expenditures for that specific elective office had to be made from that same bank account. (§ 85201, subds. (a), (e).) Only candidates other than candidates for elective state office may redesignate a controlled committee and campaign bank account established for a specific office as a campaign bank account for a future election. (Reg. § 18521, subd. (b).)

However, pre-printed checks bearing the name of the 2004 Senate Committee were paid from a checking account held in the name of the BOE Committee, while the BOE Committee also issued pre-printed checks bearing the name of the BOE Committee.

More specifically, bank records show on October 1, 2002, the BOE Committee established a campaign checking account at Wells Fargo. Bank statements showed the new account as being in the name of “Carole Migden Leadership Comm.”

Bank statements and cancelled checks show that from December 2003 until January 2004, while the checking account was held in the name of the BOE Committee, the 2004 Senate Committee wrote checks from the account. For instance, 24 cancelled

checks written in December 2003 and January 2004 (bearing identical check numbers) show “Friends of Carole Migden” as the payor for 12 checks and “Carole Migden Leadership Committee” as the payor for 12 checks.

The 24 checks paid from the BOE Committee account, which alternatively identified “Friends of Carole Migden” and the “Carole Migden Leadership Committee” as the payor, were as follows:

Count	Check Number	Date	Payor as Identified on the Pre-Printed Check	Payee	Amount
7	1502	12/19/2003	2004 Senate	SBC	\$200.45
		12/10/2003	BOE	Jennifer Keith	\$651.00
8	1503	12/19/2003	2004 Senate	John Corcoran	\$98.78
		12/10/2003	BOE	Autumn Press	\$2090.63
9	1504	12/22/2003	2004 Senate	Trinh Pham	\$200.00
		12/10/2003	BOE	Direct Mail Center	\$452.05
10	1505	12/22/2003	2004 Senate	SBC	\$42.86
		12/10/2003	BOE	McCune Audio Video Lighting	\$214.65
11	1507	12/23/2003	2004 Senate	Betty Yee	\$300.00
		4/10/2003	BOE	Print One	\$600.48
12	1508	12/31/2003	2004 Senate	Trinh Pham	\$300.00
		12/11/2003	BOE	AT & T Wireless	\$62.29
13	1510	1/5/2003	2004 Senate	Department of Parking +Traffic	\$50.00
		12/11/2003	BOE	Peg Pinard for Senate	\$3,200
14	1511	1/5/2003	2004 Senate	Ivona Bilyk	\$33.00
		12/11/2003	BOE	Peg Pinard for Senate	\$3,200
15	1512	1/6/2004	2004 Senate	Anthony Cheeks	\$36.78
		12/11/2003	BOE	California Democratic Party	\$26,600
16	1513	1/6/2004	2004 Senate	McCune Audio	\$1,114.00
		12/12/2003	BOE	Video California	\$50.00

				Democratic Party	
17	1514	<u>1/6/2004</u> 12/12/2003	<u>2004 Senate</u> BOE	Verizon Wireless <u>Harvey Milk Democratic Club</u>	<u>\$44.89</u> \$500.00
18	1518	<u>1/13/2004</u> 12/17/2003	<u>2004 Senate</u> BOE	David Serrano-Sewell for SFDCCC <u>Trinh Pham</u>	\$500.00 <u>\$200.00</u>

Moreover, banks statements and cancelled checks also show from about January 2004 until the account was closed on June 2, 2006, it was used almost exclusively by the 2004 Senate Committee. Bank records further show on “10/14/2004” a “Legal Name Change” was authorized to change the checking account name from the “Carole Migden Leadership Committee” to “Friends of Carole Migden.”

The initial statement of organization filed for the 2004 Senate Committee on December 26, 2000, disclosed “Wells Fargo Bank #0006 05” bank account number “2011780365” as the 2004 Senate Committee’s bank account. This account was reportedly opened on “12/19/00.” To date, the Enforcement Division has been unsuccessful in obtaining from Wells Fargo and Respondents have not been able to find any information to corroborate the historical existence or status of this account.

The only other statement of organization filed for this committee (an amendment to the initial statement of organization), which was filed on April 6, 2007, shows a change in the committee bank account in that the account was reportedly at North Valley Bank as account number “4302003472.” Bank records show this account was established on or about March 15, 2007.

By making 12 expenditures totaling \$2,920.76 from a bank account held in the name of the BOE Committee, as set forth above, Respondents committed 12 violations of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a).

Also, by redesignating a campaign account previously held in the name of the BOE Committee and failing to timely establish a separate campaign bank account, as set forth above, Respondents committed one violation of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivisions (a) and (b).

Counts 20-21
(Failure to Report Receipt of Transfers)

Respondents were required to report on each campaign statement the total amount of contributions received during the period covered by the campaign statement, the total cumulative amount of contributions received, and certain information about each person from whom a contribution of \$100 was received. (§ 84211, subds. (a), (c), and (f).) As discussed in Counts 5 and 6 above, the 2004 Senate Committee received transfers of \$15,000 and \$250,000 from the BOE Committee on or about September 7, 2004, and October 14, 2004, respectively. These transfers constituted reportable contributions to the 2004 Senate Committee. (§ 82044; Reg. §§ 18215, subd. (a)(2).) However, the 2004 Senate Committee has not reported receipt of these transfers.

Based on the bank records, the transactions should have been disclosed in 2004 for the following two reporting periods:

Count	Date of Transfer	Reporting Period	Amount of Transfer
20	9/7/04	7/1/2004 - 9/30/2004	\$15,000
21	10/14/04	10/1/2004 - 10/16/2004	\$250,000
		Total:	\$265,000

By failing to report receipt of two transfers from the BOE Committee, as set forth above, Respondents committed two violations of Section 84211, subdivisions (a), (c), and (f).

Counts 22-28
(Failure to Report Credit Card Vendor Information)

Respondents were required to report on each campaign statement certain information for each person to whom an expenditure of one hundred dollars (\$100) or more was made during the period covered by the campaign statement, including the following: (1) the payee's full name; (2) the payee's street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure was made. (§ 84211, subd. (k).)

However, for a period of two years, Respondents did not disclose vendor information for credit card charges of \$100 or more. More specifically, vendors were not disclosed on the 2004 Senate Committee's campaign statements for credit card expenditures of \$100 or more totaling \$73,858.67, which were required to be reported by the end of each reporting period below:

Count	Reporting Period	No. of Instances Vendors Were Not Disclosed	Amount Not Disclosed
22	1/1/03-6/30/2003	31	\$14,969.97
23	7/1/2003-9/30/2003	21	\$5,411.99
24	10/1/03-12/31/2003	13	\$5,032.22
25	1/18/2004-2/14/2004	7	\$2,194.23
26	2/15/2004-6/30/2004	47	\$20,434.13
27	7/1/2004-9/30/2004	37	\$15,701.64
28	10/17/2004-12/31/2004	22	\$10,114.49
		TOTAL: 178	TOTAL: \$73,858.67

By failing to disclose vendor information for credit card expenditures of \$100 or more, as set for the above, Respondents committed seven violations of Section 84211, subdivision (k).

2008 SENATE COMMITTEE ET AL.

Counts 29-36

(Receiving Contributions Before Filing a Statement of Intention)

Prior to the solicitation or receipt of any contribution or loan in connection with her candidacy for re-election to the State Senate, Respondent Migden was required to file with the Secretary of State a statement of intention to be a candidate for that specific office. (§ 85200.) However, from 2005 to 2007, Respondents received contributions totaling \$1,198,131, even though Respondent Migden had not filed the required statement of intention to be a candidate.

The 2008 Senate Committee filed its statement of organization on January 24, 2005. The statement identified “State Senate” as the elective office sought for the “2008” year of election. Respondent Migden filed a statement of intention to be a candidate for “State Senator” on July 3, 2007.

Campaign statements filed by the 2008 Senate Committee disclose that Respondents received contributions during the following reporting periods:

Count	Reporting Period	Contributions Received
29	1/1/2005 - 6/30/2005	\$303,350
30	7/1/2005 - 12/31/2005	\$186,420
31	1/1/2006 - 3/17/2006	\$10,500
32	3/18/2006 - 5/20/2006	\$50,859
33	5/21/2006 - 6/30/2006	\$36,700
34	7/1/2006 - 9/30/2006	\$63,100
35	10/22/2006 - 12/31/2006	\$74,000

36	1/1/2007 - 6/30/2007	\$473,202
	TOTAL:	\$1,198,131

By receiving contributions prior to Respondent Migden filing a statement of intention to be a candidate for State Senate, as set for the above, Respondents committed eight violations of Section 85200.

Counts 37-43
(Failure to Timely Report Contributions)

Respondents were required to report on each campaign statement the total amount of contributions received during the period covered by the campaign statement, the total cumulative amount of contributions received, and certain information about each person from whom a contribution of \$100 was received. (§ 84211, subds. (a), (c), (f).) However, from about March 15, 2005, through approximately October 31, 2006, the 2008 Senate Committee received but did not timely disclose contribution checks totaling about \$58,000 from about 56 contributors. More specifically, campaign statements filed in 2006 and 2007 disclose that the 2008 Senate Committee received the following contributions from the specified number of contributors, during the following reporting periods:

Count	Reporting Period	Number of Contributors	Contributions
37	1/1/2005 - 6/30/2005	30	\$30,485
38	7/1/2005 - 12/31/2005	9	\$8,875
39	1/1/2006 - 3/17/2006	6	\$3,450
40	5/21/2006 - 6/30/2006	2	\$1,500
41	7/1/2006 - 9/30/2006	3	\$9,900
42	10/1/2006 - 10/21/2006	4	\$2,050
43	10/22/2006 - 12/31/2006	2	\$1,500
		TOTAL: 56	TOTAL: \$57,760

The 2008 Senate Committee did not disclose the contributions in the campaign statements for the reporting period in which the contributions were received.

By failing to timely disclose contributions, as set forth above, Respondents committed seven violations of Section 84211, subdivisions (a), (c), and (f).

Counts 44-50
(Failure to Accurately Disclose Cash Receipts and Cash Payments)

Respondents' campaign statements were required to include an accurate statement of the balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement. (§ 84211, subd. (e).) Statements of controlled

committees must also disclose the total amount of contributions and the total amount of expenditures. (§ 84211, subds. (a), (b).) However, the 2008 Senate Committee's campaign statements understated cash receipts and cash payments for calendar year 2005 and understated cash payments for calendar years 2005 and 2006. Consequently, Respondents failed to accurately report contributions, expenditures, and cash on hand at the end of the reporting periods, as set forth below.

Amended campaign statements filed in 2007 show that cash receipts were understated by approximately \$64,888 for two reporting periods in calendar year 2005:

Count	Reporting Period	Understatement of Cash Receipts (Approx.)
44	1/1/2005 - 6/30/2005	\$26,278
45	7/1/2005 - 12/31/2005	\$38,610
	TOTAL:	\$64,888

Amended campaign statements filed in 2007 show cash payments were understated by approximately \$42,712 for the reporting period July 1, 2005, through December 31, 2005.

Amended campaign statements filed in 2007 show cash payments were understated by approximately \$128,703 for four reporting periods in calendar year 2006, which are listed according to the count to which each corresponds:

Count	Reporting Period	Understatement of Cash Payments (Approx.)
47	1/1/2006 - 3/17/2006	\$53,134
48	3/18/2006 - 5/20/2006	\$14,536
49	5/21/2006 - 6/30/2006	\$14,731
50	10/22/2006 - 12/31/2006	\$46,302
	TOTAL:	\$128,703

By understating cash receipts, as set forth above, Respondents failed to correctly report the total amount of contributions received during the reporting period, the total cumulative amount of contributions received, and the balance of cash and cash equivalents on hand at the end of the period covered by the campaign statement, and thus committed two violations of Section 84211, subdivisions (a) and (e).

By understating cash payments, as set forth above, Respondents failed to correctly report the total amount of expenditures made during the reporting period, the total cumulative amount of expenditures made, and the balance of cash and cash equivalents on hand at the end of the period covered by the campaign statement, and thus committed five violations of Section 84211, subdivisions (b) and (e).

Counts 51-56
(Failure to Maintain Records for Bank Withdrawals)

Respondents were required to maintain the detailed accounts, records, bills, and receipts that are necessary to prepare campaign statements, and to comply with the campaign reporting provisions of the Act. (§ 84104.)

Original source documentation includes cancelled checks, wire transfers, credit card slips, receipts, invoices, statements, vouchers, and any other documents reflecting obligations incurred by the candidate, elected officer, campaign treasurer, or committee, and any disbursements made from the campaign bank account. (Reg. § 18401, subd. (a).)

In addition, the accounts, records, bills and receipts, and original source documentation must be kept by a filer for a period of four years following the date that the campaign statement to which they are related is filed. (Reg. § 18401, subd. (b)(2).)

Respondents failed to maintain required supporting records, such as invoices and receipts, for withdrawals from the campaign bank account made in 2006, totaling \$8,850. The following list identifies the reporting periods at issue and the dollar amount of the withdrawals per reporting period:

Count	Reporting Period	Amount of Withdrawals
51	1/1/2006 - 3/17/2006	\$2,250
52	3/18/2006 - 5/20/2006	\$1,300
53	5/21/2006 - 6/30/2006	\$1,900
54	7/1/2006 - 9/30/2006	\$2,200
55	10/1/2006 - 10/21/2006	\$200
56	10/22/2006 - 12/31/2006	\$1,000
	TOTAL:	\$8,850

By failing to maintain supporting records, such as invoices and receipts, for withdrawals from the campaign bank account, as set forth above, Respondents committed six violations of Section 84104 and Regulation 18401, subdivision (a).

Counts 57-65
(Failure to Maintain Records for Expenditures)

Respondents' recordkeeping duties included the duty to maintain original source documentation and specific information for all expenditures made by Respondent Migden or the 2008 Senate Committee for four years following the date that the campaign statement to which they are related is filed. (Reg. § 18401, subds. (a), (b)(2).) Respondents did maintain cancelled checks and bank statements. However, Respondents failed to maintain other required supporting records, such as invoices and receipts, for

expenditures made over a two year period, totaling about \$346,170. The following list identifies the reporting periods at issue and the expenditures per reporting period:

Count	Reporting Period	Amount of Expenditures (Approx.)
57	1/1/2005 - 6/30/2005	\$41,630
58	7/1/2005 - 12/31/2005	\$57,471
59	1/1/2006 - 3/17/2006	\$21,964
60	3/18/2006 - 5/20/2006	\$22,604
61	5/21/2006 - 6/30/2006	\$5,105
62	7/1/2006 - 9/30/2006	\$32,825
63	10/1/2006 - 10/21/2006	\$400
64	10/22/2006 - 12/31/2006	\$130,675
65	1/1/2007 - 6/20/2007	\$33,496
	TOTAL:	\$346,170

By failing to maintain supporting records, such as invoices and receipts, for withdrawals from the campaign bank account, as set forth above, Respondents committed nine violations of Section 84104 and Regulation 18401, subdivision (a).

Counts 66-73

(Failure to Timely Report Contributions of \$5,000 or More Online)

Respondents were required to file an online or electronic campaign report with the Secretary of State within 10 business days of receipt of every contribution of \$5,000 or more that was received at any time other than during the period of time commencing 90 days prior to an election and ending on the date of the election. (§§85204, 85309, subd. (c).) However, Respondents failed to timely file required reports online or electronically for contributions of \$5,000 or more received from 11 reported sources during the period outside of the 90-day election cycle, which totaled \$54,900.

A 2008 Senate Committee campaign statement filed on August 1, 2005 for the reporting period January 1, 2005, through June 30, 2005, discloses that the 2008 Senate Committee received total cumulative reportable contributions of \$50,000 or more before March 18, 2005. This triggered Respondents' obligation to file campaign statements online or electronically with the Secretary of State. (§ 84605, subd. (a).) Respondent Migden had a specific obligation, because of her status as a candidate for elective state office, to file online or electronically with the Secretary of State a report disclosing receipt of a contribution of \$5,000 or more received at any time other than during the "election cycle." Respondent Migden was not a candidate in elections held in 2005 and 2006.

Bank records and campaign statements show that the 2008 Senate Committee failed to timely file online reports disclosing its receipt of contributions of \$5,000 or more received during calendar years 2005 and 2006, as follows:

Count	Reporting Period Ending	Amount of Contributions
66	10 days after 3/15/2005	\$13,200
67	10 days after 12/31/2005	\$6,600
68	10 days after 5/18/2006	\$5,000
69	10 days after 6/21/2006	\$5,000
70	10 days after 6/22/2006	\$5,000
71	10 days after 9/27/2006	\$6,700
72	10 days after 9/28/2006	\$6,700
73	10 days after 12/31/2006	\$6,700
	TOTAL:	\$54,900

By failing to timely file required reports online or electronically for contributions of \$5,000 or more, as set forth above, Respondents committed eight violations of Section 85309, subdivision (c).

Counts 74-80
(Failure to Report Credit Card Vendor Information)

Respondents were required to report on each campaign statement certain information for each person to whom an expenditure of one hundred dollars (\$100) or more was made during the period covered by the campaign statement, including the following: (1) the payee's full name; (2) the payee's street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure was made. (§ 84211, subd. (k).)

However, for a period of two years, Respondents did not disclose vendor information for credit card charges of \$100 or more. More specifically, vendors were not disclosed on the 2008 Senate Committee's campaign statements for credit card expenditures of \$100 or more totaling \$154,764.50, which were required to be reported by the end of each reporting period below:

Count	Reporting Period	No. of Instances Vendors Were Not Disclosed	Amount Not Disclosed
74	1/1/2005-6/30/2005	54	\$30,274.50
75	7/1/2005-12/31/2005	61	\$26,743.53
76	1/1/2006-3/17/2006	26	\$18,000.29
77	3/18/2006-5/20/2006	25	\$25,823.93
78	5/21/2006-6/30/2006	20	\$14,087.10
79	7/1/2006-9/30/2006	34	\$16,386.52
80	10/22/2006-12/31/2006	35	\$23,448.63
		TOTAL: 255	TOTAL: \$154,764.50

By failing to disclose vendor information for credit card expenditures of \$100 or more, as set forth above, Respondents committed seven violations of Section 84211, subdivision (k).

Counts 81-88
**(Making Expenditures Not Reasonably Related to a
Political, Legislative, or Governmental Purpose)**

Any expenditure from the 2008 Senate Committee's campaign account to seek office is lawful if it is reasonably related to a political purpose. (§ 89512.) However, any expenditure that confers a substantial personal benefit must be directly related to a political, legislative, or governmental purpose. (*Ibid.*) A "substantial personal benefit" means an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars (\$200) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee. (§ 89511, subd. (b)(3).)

However, Respondents admit, and corresponding records indicate, that expenditures by the 2008 Senate Committee totaling \$16,317.91 were neither reasonably nor directly related to a political, legislative, or governmental purpose. Instead, these expenditures conferred a substantial personal benefit on Respondents Migden and Potashner. Respondents voluntarily reimbursed the 2008 Senate Committee for these expenditures in 2007. These expenditures were made over eight reporting periods, as listed below:

Count	Reporting Period	Amount of Expenditures
81	1/1/2005 - 6/30/2005	\$2,706.05
82	7/1/2005 - 12/31/2005	\$3,469.36
83	1/1/2006 - 3/17/2006	\$3,153.59
84	3/18/2006 - 5/20/2006	\$1,931.77
85	5/21/2006 - 6/30/2006	\$1,170.29
86	7/1/2006 - 9/30/2006	\$1,736.71
87	10/22/2006 - 12/31/2006	\$1,503.96
88	1/1/2007 - 6/20/2007	\$646.18
TOTAL:		\$16,317.91

By making expenditures, as set forth above, Respondents committed eight violations of Section 89512.

RESPONDENTS MIGDEN AND THE 2008 SENATE COMMITTEE

Count 89

(Failure to Report Credit Card Vendor Information)

Respondents were required to report on each campaign statement certain information for each person to whom an expenditure of one hundred dollars (\$100) or more was made during the period covered by the campaign statement, including the following: (1) the payee's full name; (2) the payee's street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure was made. (§ 84211, subd. (k).)

As discussed above with regard to Counts 74 through 80, for a period of two years, Respondents did not disclose vendor information for credit card charges of \$100 or more. Regarding this Count 89, which arises in connection with Counts 74 through 80, vendors were not disclosed on the 2008 Senate Committee's campaign statements for credit card expenditures of \$100 or more totaling \$30,847.03, which were required to be reported by the end of the reporting period ending June 30, 2007.

By failing to disclose vendor information for credit card expenditures of \$100 or more, as set forth above, Respondents committed one violation of Section 84211, subdivision (k).

Conclusion

This matter consists of 89 counts of violating the Act, which carry a maximum administrative penalty of \$5,000 per violation, for a total of \$445,000.

Respondents have committed numerous campaign reporting and related violations over a four-year period. The public harm inherent in these types of violations is that the public is deprived of important information such as the sources and amounts of contributions to a campaign and the amounts expended by the campaign. However, the severity of the violations in this case has been substantially aggravated by the clear pattern of violations of the Act.

The violations in this matter include the repeated failure to comply with some of the most basic requirements of the Act, such as establishing a campaign bank account, timely filing a statement of intention to be a candidate, fulfilling basic recordkeeping requirements, and timely terminating a candidate controlled committee. Moreover, the campaign statements in this matter contained serious reporting errors of which Respondents should have been aware.

In response to the Commission's December 2006 fines, Senator Migden initiated an audit of her committees. When she discovered additional problems, she self-reported and has cooperated with the Enforcement Division's subsequent investigation. Respondents also voluntarily amended their campaign statements to provide fuller

disclosure. Furthermore, the bulk of the violations occurred before December 2006. However, in light of Respondents' clear and extended pattern of violations, the totality of the circumstances warrants imposition of administrative penalties at or near the maximum available penalty (\$5,000) for the majority of Respondents' violations. In this context, each category of violation with administrative penalties less than the maximum available is discussed below.

Failure to Timely Report Transfers (Counts 5-6).

The typical administrative penalty for campaign reporting violations has historically varied based on the circumstances of the violations. In this matter, Respondents were about three years late in reporting transfers made to another of Respondent Migden's controlled committees. However, the Enforcement Division was made aware of these reporting violations only after Respondents self-reported the violations to the Enforcement Division and submitted an amended campaign statement disclosing the transfers. In addition, the receiving committee (the 2004 Senate Committee) has agreed to pay the maximum penalty of \$5,000 per count for never disclosing these transfers. Accordingly, the circumstances of these violations warrant a lesser penalty of \$3,000 per count.

Receiving Contributions Before Filing Statement of Intention (Counts 29-36).

Past enforcement of these violations has resulted in penalties in the low-to-middle range of the available penalties. In this matter, although Respondent Migden filed a statement of intention to be a candidate long after receiving over one million dollars in contributions, the 2008 Senate Committee routinely filed paper and electronic campaign statements for the applicable reporting periods, thereby giving public notice of Respondent Migden's intent to run for re-election to the State Senate in 2008. Accordingly, the circumstances of these violations warrant an administrative penalty of \$2,000 per count.

Statement of Cash Balances, Receipts, and Payments (Counts 44-50).

These violations have been infrequently addressed in enforcement matters as stand-alone issues. When addressed, the stipulated administrative penalty has been in the low-to-middle range of the available penalties.

In this matter, the failure to accurately disclose cash balances, receipts and payments was linked to other disclosure violations by the 2008 Senate Committee. Because those other disclosure violations are subject either to a maximum penalty of \$5,000 (including counts 37-43) in this case or an action that could include administrative proceedings or litigation as referenced in the corresponding Stipulation, Decision, and Order, the circumstances of these related violations warrant a penalty of \$2,000 per count.

Recordkeeping Violations (Counts 51-56).

The typical administrative penalty for recordkeeping violations has been in the low-to-middle range of the available penalties, depending on the facts and circumstances of each case. In this matter, the Respondents provided documentation to support that withdrawals were made but did not maintain or produce records such as invoices and receipts to show how the withdrawals were expended. The \$8,850 withdrawal amount comprised less than 2% of the 2008 Senate Committee's total reported expenditures during calendar year 2006. Additionally, the 2008 Senate Committee's failure to maintain and produce required records for the expenditures totaling approximately \$346,170, discussed in counts 57-65, warrants the agreed upon penalty of \$5,000 per count. Accordingly, the circumstances of these violations (counts 51-56) warrant a lesser penalty of \$2,000 per count.

Non-Election Cycle Reports (Counts 66-73).

Because this issue has only recently been addressed in enforcement matters, there is no "typical" administrative penalty for failing to file online reports within 10 days of receiving contributions of \$5,000 or more outside of the election cycle. This reporting requirement is similar in nature to the late contribution reporting requirements and \$1,000 online reporting requirements. However, this requirement only captures contributions of \$5,000 or more that are made outside the 90-day period prior to the late contribution period and before the election and only requires that reporting be done electronically or online within 10 days of receipt. Thus, it is generally appropriate for stipulated administrative penalties for these violations to be less than is typical for violations of the late contribution reporting requirements. The stipulated penalties for these violations have not exceeded \$2,000 per count, even when the reports were not filed at all.

In this matter, Respondents failed to file eight online reports disclosing contributions of \$5,000 or more, as required by law. Virtually all contributions were disclosed in campaign statements for the reporting periods during which the contributions were received. In addition, the contributions were disclosed at least one year before the June 2008 and November 2008 elections for which they were made.

The fact that Respondents Carole Migden, the 2004 Senate Committee, and Roger Sanders paid penalties in December 2006 for committing these reporting violations does not warrant a higher penalty. The violations addressed in the 2006 stipulations – which did not involve Re-Elect Senator Carole Migden – took place before the violations in this matter but were not brought to the Respondents' attention and enforced until *after* the subject violations took place.

Thus, the circumstances of these violations warrant a penalty of \$1,500 per count.

Based on the foregoing facts and circumstances, a penalty in the agreed upon amount of \$350,000 is justified.